

MEMO ENDORSED
HERRICK

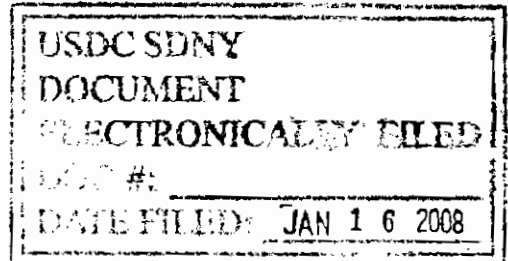
NEW YORK
NEWARK
PRINCETON

MARY ELLEN SHUTTLEWORTH
Direct Tel: 212.592.1469
Direct Fax: 212.545.3391
Email: mshuttleworth@herrick.com

January 15, 2008

VIA FACSIMILE

The Honorable Laura Taylor Swain, U.S.D.J.
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 755
New York, New York 10007-1312
Fax: (212) 805-0426



Re: Banco Popular Dominicano, C. Por A. v. Levi Strauss & Co.
No. 07 Civ. 6443 (LTS) (THK)

Dear Judge Swain:

We represent the plaintiff/counter-claim defendant Banco Popular Dominicano, C. Por A. ("BPD") in the referenced action. Today, third-party defendant YKK Snap Fasteners America, Inc. ("YKK") requests that the Court permit it until January 29, 2008 to decide its position on whether it will make a motion based on *forum non conveniens*. YKK claims that if it decides to proceed, it will file a motion "shortly thereafter."

BPD respectfully requests that Court deny YKK's attempt to delay this action and require that YKK decide whether it will make its motion prior to the parties' conference with Judge Katz on January 24, 2008. (Our attempt to work this out directly with counsel for YKK was unsuccessful.)

The *forum non conveniens* issue is not new to this case. Third-party defendant QST Dominicana ("QST") made its Motion to Dismiss for *Forum Non Conveniens* in October, 2007. BPD submitted opposition to QST's motion setting forth the myriad reasons why there was no merit to the motion. Instead of submitting a reply, QST withdrew its Motion to Dismiss on January 14, 2008.

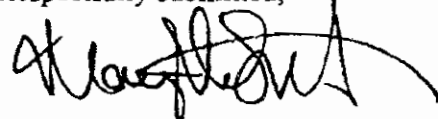
Prior to the motion being withdrawn, on December 17, 2007, YKK notified the Court and the parties that it would file papers in support of QST's (now withdrawn) Motion Dismiss. Now, nearly a month later, YKK has not filed any papers in support of the motion. YKK has not taken any action. Indeed, YKK has not amended its answer wherein it pled "[t]hird-party Defendant YKK does not contest the venue of this action." (YKK's Answer, dated October 10, 2007 at ¶ 13.) Pursuant to Fed. R. Civ. P. 15, YKK is months past its deadline to amend its Answer.

HERRICK

The Honorable Laura Taylor Swain, U.S.D.J.
January 15, 2008
Page 2

YKK's request should be regarded only as an attempt to further delay this action, and YKK should not be permitted to stall any progress that may occur at the conference with Judge Katz on January 24, 2008 by refusing to decide whether they will proceed with a motion. Therefore, BPD respectfully requests that the Court require YKK to inform the parties and the Court of its intention regarding *forum non conveniens* prior to the conference with Judge Katz.

Respectfully submitted,



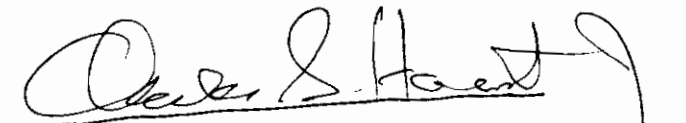
Mary Ellen Shuttleworth

cc: Hon. Theodore H. Katz (via facsimile)
Charles Spencer Caranicas, Esq. (via facsimile)
Gregory Plotko, Esq. (via facsimile)
Jill Suzanne Taylor, Esq. (via facsimile)
Daniel Goldberg, Esq. (via facsimile)

Counsel shall be prepared to discuss YKK's intentions as to motion practice at the scheduled conference with Judge Katz.

01/15/08

So Ordered.


USPJ